

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 LEO SCHWARTZENBERGER,

1:10-cv-00263-GSA (HC)

12
13 Petitioner,

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
CALIFORNIA

14 vs.

15 F. GONZALES,

16 Respondent.
17 _____ /
18

19 Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28
20 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

21 The federal venue statute requires that a civil action, other than one based on diversity
22 jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants
23 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
24 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is
25 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which
26 the action may otherwise be brought.” 28 U.S.C. § 1391(b).

27 In this case, the petitioner is challenging a conviction from Contra Costa County, which is in the
28 Northern District of California. Therefore, the petition should have been filed in the United States

1 District Court for the Northern District of California. In the interest of justice, a federal court may
2 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
3 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

4 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
5 District Court for the Northern District of California.

6 IT IS SO ORDERED.

7 **Dated: February 24, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE